REMARKS

The Examiner has set a Restriction Requirement under 35 U.S.C. § 121. Applicant has been requested to select between invention I (claims 1-9) drawn to a solid cosmetic composition and invention II (claims 10-11) drawn to a foamed composition. Applicant elects with traverse the claims of "invention" I.

Why does applicant traverse? Firstly, restriction practice serves to remove any onerous Examination burden on the Examiner. Applicant notes that the present Examiner has indicated that both inventions I and II are classified in class 424, subclass 401. Apparently both alleged inventions are found in the same subclass. Certainly this cannot be burdensome for the Examiner. Indeed, applicant would be astounded if the Examiner arrived at references of significance that would be different between claims 1-9 and claims 10-11.

The Examiner has presented argument at page 2 as support for the inventions being distinct. The Examiner keeps using the word "make-up". This term does not appear anywhere in the claims. The Examiner has stated that foamed solid make-up compositions include creams and mousses. They do not. Creams are liquids and mousses are foamed liquids rather than foamed solids. Next the Examiner states that when foamed solid make-up compositions are allowed to mix with other chemicals they produce exothermic, endothermic and/or gas producing reactions. This is not necessarily so. In fact, foamed solids because they are in the solid state are not too reactive. No doubt water will dissolve the presently claimed foamed starch solids. But water will also dissolve non-foamed starch solids.

The Examiner has also presumed that non-foamed solids generally include inorganic fillers. Foamed solids are just as likely to have inorganic fillers. Moreover, the presence or absence of inorganic fillers should be irrelevant to the Restriction issues.

Applicant selects invention I pro forma to avoid a default but asks the Examiner to reconsider the Restriction Requirement.

Further, the Examiner has requested an election of species. Again, applicant traverses. The Examiner has argued that the species are distinct because the different composition forms may have different ability to penetrate the body and have a resultant variable functionality. For example, the Examiner mentioned entry via the vagina for treating diseases. Other alternatives were mentioned as yeast infections which are approached through the anus. Constipation and diarrhea were also mentioned.

Applicant is somewhat confused by the Examiner's arguments. The present invention is to a cosmetic rather than a medicinal product. What does a cosmetic have to do with the vagina or the anus??

Next the Examiner is of the belief that the cosmetic agents may be utilized in a variety of capacities. As an example, the Examiner presents emollients as utilized to carry immunotoxins that treat human autoimmune diseases as distinct from surfactants which could be carriers from pharmaceutical compositions treating cardiovascular disease. From these statements, the Examiner may not fully appreciate the nature of

the claimed invention. Applicant is dealing with cosmetic compositions which have nothing whatsoever to do with medical conditions.

In order to avoid default, applicant with traverse elects sheets as a composition form and humectants as the cosmetic agent.

Applicant has waited three years and three months for this first Examination. It would be appreciated if the USPTO would finally substantively examine the claims.

Respectfully submitted,

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